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The Longfellow, Dec. '53

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THE SCHOOL QUESTION  
IN MANITOBA.

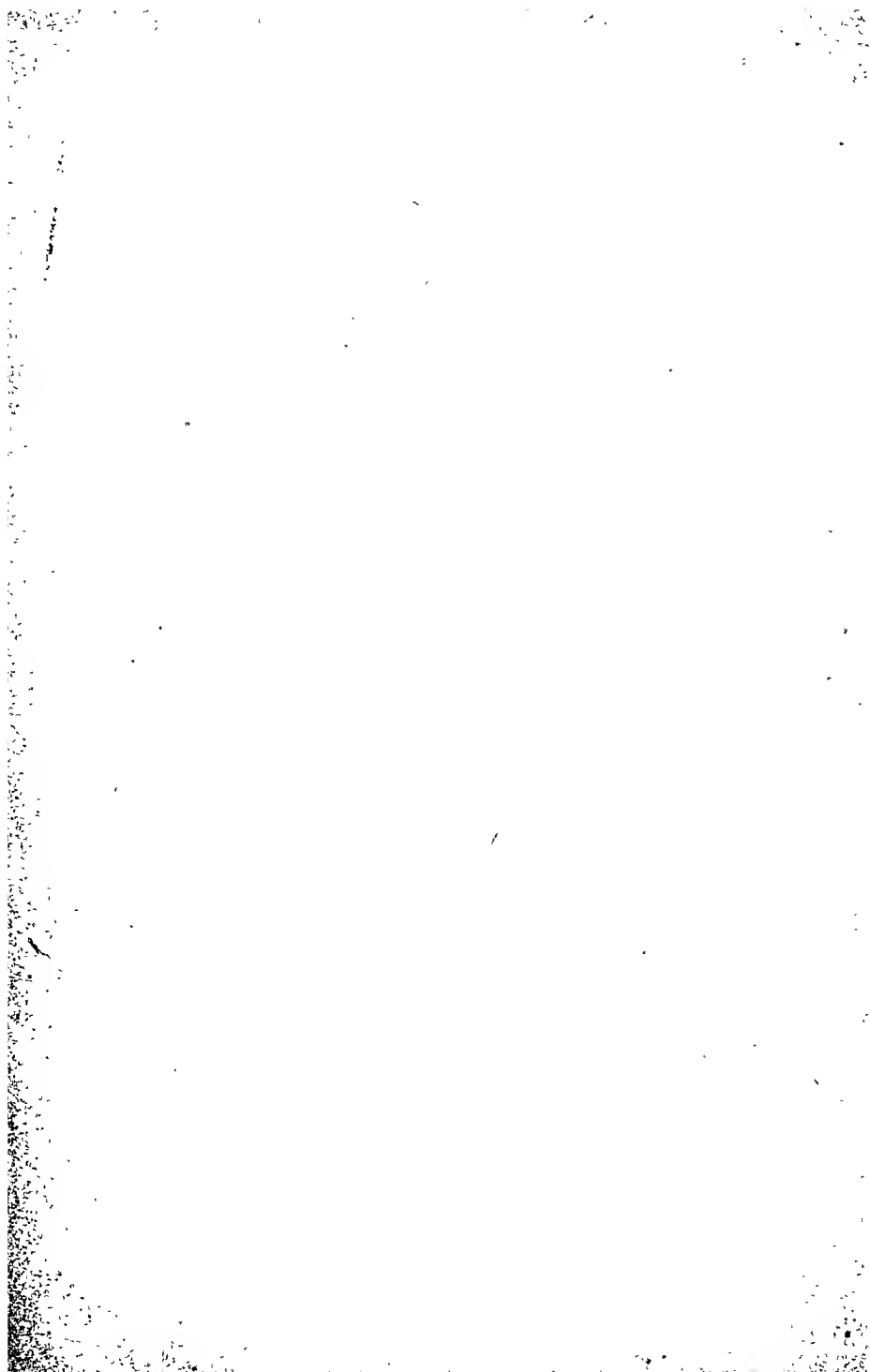
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A LETTER  
—FROM—  
JAMES FISHER  
—TO THE—  
ELECTORS OF RUSSELL.

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72B

1840



## To the Electors of the Electoral District of Russell :

GENTLEMEN :—

Having been prevented from taking part to any extent in the deliberations of the Legislature while dealing with public matters of more than usual interest and importance at its last session, I have thought it well to yield to the suggestion of some of my friends that I should give expression to my views on some of those questions; and I have thought that, upon the whole, it would be more convenient to do so at this time in the shape of a letter, than by addressing public meetings in your district.

The question that seemed above all others to engross public attention for some time before and during the last session was

### THE SCHOOL QUESTION,

and for that reason I first refer to it.

Were we to judge by ordinary tests, one might have been justified in saying, a little over twelve months ago, that the system of education which had been in operation for nearly twenty years past had given general satisfaction. I refer to the fact that no popular demand had ever been made for a change of any kind; not a single expression of a wish for such a change had been heard; and in the absence of such demand, or of some evidence of dissatisfaction, it might have been reasonable to conclude that the public were fairly satisfied with the law as it was.

And yet, although no opportunity has hitherto arisen of testing public opinion in a formal way, it is apparent that the movement to establish national schools met with a very cordial response in the Province. It was manifest from the beginning of the discussion that there was a very decided (though up to that time latent) feeling amongst the majority in Manitoba, against the appropriation of public moneys to the education of children in the distinctive religious views of any particular denomination.

### THE OLD SYSTEM.

I need hardly remind you that under the late system our schools were controlled by a Board of Education appointed by the Government, divided, however, into two sections, and forming practically two independent bodies: the one, composed wholly of Protestants, had exclusive control over what were called Protestant schools; while the other, comprising only Catholics, had the like exclusive charge over Catholic schools.

## CATHOLIC DEFENCE OF THAT SYSTEM.

A very plausible defence of that system appeared early in the discussion, from the pen of a distinguished prelate of the Catholic Church, contending very forcibly, from his standpoint, for the fairness of the law as it then stood. What could be less objectionable, said that writer, in effect, than a law which gives exclusively to Catholics the management of their own schools, while Protestants have the same exclusive control over theirs? What could be fairer than the division of the legislative grant in aid of schools between the Protestant and Catholic sections in proportion to the number of school children of the respective creeds, as shewn in the census returns? What more equitable than the provision that a Catholic ratepayer shall never be called on to pay rates towards a Protestant school, while every Protestant ratepayer is equally exempt from payment of rates to a Catholic school?

## THE DEFENCE NOT CONCLUSIVE.

This view of the case seems at first sight very reasonable, but the acceptance of such a conclusion on the part of Protestants pre-supposes that they approve of Protestant schools. The truth is, however, the reverse. The opinion of the Protestant community is, I am convinced, largely opposed to either Protestant or Catholic, and in favor of national schools. But I maintain that there were, in fact, under the late system, no Protestant schools properly so called. We had schools it is true, that were called by that name, but the term was, in my view of it, a misnomer. The schools that were so called were not Protestant in any sense that I can see, except that they were under Protestant management. Even the reading of the Bible was conducted without note or comment. Our Protestant schools were to all intents and purposes public schools. The standard of qualification for teachers related to proficiency in secular branches of learning only. That standard, as well as the extent to which it was maintained, was made public and had to meet the criticism of public opinion. The examination and certification of teachers were in the hands of officers appointed by the State, and no religious test was required. The inspection of the schools, too, was really an inspection by the state; the results were made public, and the administration of the system in every respect was, as it ought to be, amenable to public approval and public censure.

If all this was true of the Protestant schools it might be thought that it must have been alike true of those of the Catholic section, seeing that the same law, with but a slight variation, applied to both. Practically, however, it was not so. While no control was exercised or attempted to be exercised by the Protestant denominations, over Protestant schools, those of the Catholic section were, in fact as well as in name, directly and avowedly under the control of the church. They were in truth no more nor less than church schools. I am not aware that the qualification of teachers in them was based on any standard that was submitted to public opinion; nor was the progress of the schools them-

selves, or the work they accomplished, even in the way of secular education, submitted to the same tests, by way of public inspection, that obtained in the case of Protestant schools. The real distinction between the schools of the two sections was the one I have just indicated—on the one side there were public national schools—on the other, denominational schools under the charge of a single church. Under such circumstances, the contention that the law nominally conceded the same rights to Protestants as it did to Catholics, had no weight with the former, who claimed no privileges for Protestant schools as such. The moment the question was opened, the minds of the majority turned to the one leading fact, that the Province was using public monies for denominational education in Catholic schools, over which the provincial authorities exercised no practical control, and at once we saw evidence of a widespread feeling—a feeling founded, as I think, on reason and justice—that if the Province was to give aid to schools out of the public purse, the gift ought to be made on the condition that the government should see both to the form and the quality of the teaching.

#### A GRIEVANCE.

I may refer here to a grievance of a practical character that had been felt in many districts of the Province, arising from a feature of the old law that I have already referred to. I mean the provision that no Protestant was liable to pay rates to a Catholic school, or *vice versa*. In districts where the rate-payers were wholly Catholic or wholly Protestant, this wrong was not felt; but in those sections that contained some Catholic settlers, or in which there were lands owned by Catholics, but containing too small a population of that creed to maintain a Catholic school, there was felt to be a real grievance. In such districts (and they include the greater part of the Province) the Catholic rate-payer escaped altogether from the burden of maintaining the schools. His neighbor was taxed heavily for that purpose, but the Catholic and his lands went scot-free. The Catholic population in their own districts, had perhaps cause to complain of the like wrong where there was a sprinkling of Protestant settlers, who, on their part, escaped liability for school taxes. But complaints from Catholics were not, and were not likely to be, heard. From various causes I understand the fact to be, that the burden of maintaining schools has not been so great on Catholics as on Protestants. Apart from that fact, the Catholic realizes that his school is a church school, to which he expects no Protestant to contribute; while the Protestant, looking on the school which he supports as a public institution, rightly deems the exemption of his Catholic neighbor from taxes, to be a grievous wrong. The popular opinion that seemed so strongly to support the Legislature in passing the Act was based mainly, I have no doubt, on the two propositions I have suggested—first, that it was objectionable to grant public aid to schools that were not controlled by the State, and which seemed to exist for the one purpose of imparting sectarian education—second, that it was unfair to the majority of the settlers in any district, that the minority should escape liability to pay rates for the public schools.

## THE NEW SYSTEM.

The Government scheme, now passed into law, has the merit of removing both of these objections. Whether in all respects it was dictated by prudent counsel—whether it sufficiently respected the contention of the minority, in view of the privileges so long enjoyed by them—and whether it properly regarded the constitutional restraints on the power of our Legislature to deal with the matter, are questions which have evoked not a little discussion, and which are likely to be the subjects of warm controversy for some years to come.

The system that has thus been established is one of National Schools devoted to secular education—combined, however, with religious exercises which are claimed to be of a non-denominational character. The Roman Catholic hierarchy oppose this system, because, as they contend, the religious element under the direction of the church should be the first and chief characteristic of the education provided by the State—the secular features taking a secondary place. In this view they teach their adherents to regard the public school, as we have it, as an institution to whose care the children of the faithful cannot safely be committed. The law, as it now stands, so far disregards this objection of the hierarchy, that it compels the Catholic rate-payer to pay tribute to the public schools whether he approves them or not; while it forbids the application of any public monies, or the use of the municipal machinery to enable Catholics to levy, even on their own properties, for the support of schools that are acceptable to them.

The opponents of the new system say that it is unjust to the Catholic minority in that it compels them to contribute to the support of schools of which they cannot, if true to their church, avail themselves. They say the result is not only to force Catholics to pay their full share of the general tax for public schools, but after that, to pay out of their own pockets the entire expense of educating their own children—thus imposing upon them a double burden.

## DUTY OF THE STATE.

To judge fairly whether the law is unjust in this respect one must consider what position the state ought to take as to the education of the young. Doubtless the great majority of the people of Manitoba, as well as of the Dominion at large, are agreed that the State should confine itself to supplying means of furnishing secular learning, and that it should limit its educational grants of public monies to that object. At the same time in acknowledgment of the belief in Christianity which is assumed to be general in our population, an equally large majority, perhaps, demands that education in the schools shall be accompanied with, and characterized by, such religious exercises and acts of worship as will bear testimony to and inculcate that belief.

It seems to me, holding the above view of the position the State should take, that in creating and liberally assisting a national system of



non-sectarian schools, the Province is doing its whole duty in that regard, and that in failing to provide for the creation of denominational schools, it is doing no injustice to any sect. And I fail to see that the Province is doing a wrong in imposing on the people generally, irrespective of creed, the duty of paying local rates towards such schools. Then the providing of such religious exercises, if it be possible to settle upon forms and words that are really non-denominational (not only as between Protestant denominations but as between Protestants and Catholics) will not, I think, justify the condemnation of such a system.

### THE END IN VIEW.

The end that the Legislature has in view in making a grant of public money for education, is as I have said, to promote secular, not denominational, education. So long as every child in the land of whatever creed or nationality has the opportunity of fully enjoying the secular teaching thus provided, and so long as no child is compelled to join in religious exercises against the wish of its parents, I am unable to discover that any grievous wrong is done. At the same time I am of the opinion that it will be practically impossible to agree on religious exercises that will be acceptable to all classes; and it may be that for this reason the religious exercises will in the end have to be abandoned, under a national system.

### THE CONSCIENCE QUESTION.

One word as to the argument from the standpoint of the Catholic conscience. It has been frequently and urgently pressed upon us by a most influential exponent of public opinion in this Province that a great wrong is done in disregarding the conscientious scruples of Roman Catholics against public schools. I quite agree that the State in the administration of public affairs should, as far as possible, avoid calling on any citizen to do that which his religious convictions disapprove; but it is manifestly impossible, even in a country as free as ours, to square the conduct of public affairs, at all times, with the consciences (as the term is used) of the whole community. The Quaker and the Mennonite have, as I understand, the keenest scruples of conscience against paying taxes for military purposes; yet out of the many dollars contributed by members of these societies in Canada to the Federal Exchequer, in the shape of Customs and other Duties, a considerable portion is devoted every year to such a purpose in defiance of these conscientious scruples.

The truth is that if we yield to the conscience argument on this point we will be logically bound to go a long step farther. The Catholic church not only condemns the system of public education that ignores Catholic teaching, but it denies altogether the propriety of the State having the control of even secular education, and it demands that the entire system be placed under the charge of the church. The faithful Roman Catholic of course assents to this attitude of his clerical advisers, and his conscience must be wounded when the State insists on asserting

control over secular teaching. How many persons in Manitoba, outside of that church, will affirm that on this question the State ought to yield? Is it possible to imagine such a thing occurring in any Canadian Province other than Quebec? It comes then to this, that at some point the State has to take issue with the Roman Catholic church, and why not take it at the point where the establishment of separate schools is demanded?

The argument that the State should yield to the conscientious scruples of Roman Catholics to the extent of granting state aided Catholic schools, to be put under the control of the church, sounds a little out of place, too, when advanced on behalf of a church that is not, to say the least, pre-eminently liberal in conceding on its own part freedom of conscience. I find in a recent publication this declaration attributed to Pope Pius IX: "The absurd and erroneous doctrines or ravings in defence of liberty of conscience are a most pestilential error, a pest of all others most to be dreaded in a State." And consistently with this view the church of Rome, in a country where she did not endanger her own position by such a course, would, as history suggests, disregard the appeals of other denominations to be allowed special privileges because of conscientious scruples. Far be it from me to plead this attitude of the Catholic church as a ground for justifying the refusal on our part of denominational schools to Catholics if they had a fair right to them. Protestants claim to be guided by more liberal views than to act towards Catholics necessarily as the latter might, under particular circumstances, act towards them, and they pride themselves on the extent to which they allow liberty of conscience to all. It is quite enough for my purpose to contend that in establishing a uniform system of secular education, the Province is not doing a real injustice as long as it offers equal rights in respect of that education to all. It may be that the opposition of Catholics will make it quite impossible to establish a national system that will unite all sects, but that does not decide that such a system would be unjust.

I have no difficulty, therefore, in coming to the conclusion that if no other issue is raised than the one question of the justice of establishing, at the wish of the majority, such a system of education as we now have, against the protest of one religious denomination, the verdict must be awarded in favor of the Government's action. The only point I could have a doubt upon is as to whether the religious exercises will not really be denominational as against Catholics; but I understand that the objections of the hierarchy to the system would be quite as pronounced if there were no such exercises.

### QUESTIONS THAT RAISE DOUBTS.

And yet, though you and I should concede, most fully (as I do for my part) our very decided preference for a purely national, as against a purely denominational, or a mixed national and denominational system of education, there may be room to doubt the wisdom of the Legislature in the attempt to abolish separate schools—if, in the first place, there is

any higher law or right restraining our power to legislate finally in that direction; or if, in the next place, there are circumstances in the present position of the Province making the exercise of that power unreasonable

### THE CONSTITUTIONAL QUESTION.

The Roman Catholic minority assert that our Legislature has no power to abolish separate schools, which they claim are secured to them by the Constitution. In support of this contention they plead both Federal and Provincial Statutes, and they declare that nothing short of an Imperial Act can take away their rights in this respect. I will draw your attention shortly to the clauses under which this claim is made. We have, as you know, two Acts of Parliament settling our Constitution: The British North America Act of the Imperial Parliament, commonly called the Confederation Act; and the Manitoba Act, under which our Province was formed, passed by the Federal Parliament in the first place, and confirmed afterwards by an Imperial Statute. By the Confederation Act the right to legislate on certain local subjects, including education, was relegated to the local legislatures. But while the jurisdiction given to the Legislatures, as to these local matters generally, was exclusive and unlimited (subject only to disallowance), the power to legislate as to education was expressly limited. This will appear from the first sub-clause of Section 93 of the Act of Confederation. The first part of the Section enacts that: "In each Province the Legislature may exclusively make laws in relation to education, subject and according to the provisions that follow," and then comes the first sub-clause in these words: "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union."

The provisions of the Confederation Act were made to apply to Manitoba on its union with Canada, excepting so far as they were inapplicable or were modified by the Manitoba Act itself. It can hardly be said that the clause above quoted could apply to Manitoba. There were no denominational schools established in the Province at the time of the union as to which there were rights recognized by law. Denominational schools were in existence here but they were not established by law, nor had any class of persons, by law, any right or privilege with respect to them. The statesmen who framed the Manitoba Act doubtless saw that the clause as it stood would not affect the new Province for which they were drafting a Constitution. Had the clause been such as would have applied to us, no doubt they would have left it just as it was, but inasmuch as it would not apply, they prepared a new clause that would, and this is the way in which Parliament passed it:—

"Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons had by law or practice in the Province at the union."

This clause you will observe is part of the Manitoba Act itself, and of course applies to the Province. The only change made from the gen-

eral Act was the introduction of the words "or practice." Manifestly these words were introduced into our Act for some purpose. Manifestly too, the purpose of the clause as a whole was to limit the power of the Legislature to legislate on the question of education, in regard at all events to denominational schools. The clause expressly declares this.

Parliament in passing it had clearly in view, that there might be denominational schools in Manitoba at the time of the union—and that certain classes of persons might have been at that time "by practice," if not by law, in the enjoyment of some right or privilege with respect to them. And in view of such possibility Parliament proceeded to provide that the Legislature of Manitoba should have no power to pass any law that would prejudicially affect such rights or privileges. Parliament had some years before passed the sub-clause of the Confederation Act already quoted, and there is no doubt at all as to what its purpose was in so doing. It was done with the avowed object of

### PERPETUATING SEPARATE SCHOOLS

for the Catholic minority in Ontario, and for the Protestant minority in Quebec. Is it necessary to argue that Parliament must have had a like object in putting every word of the limiting clause in the constitution of Manitoba? Surely that is too evident to require argument. Once more let me recall the fact that the clause without modification would not be applicable to Manitoba, because of the non-existence of denominational schools established by law. Let us keep before us also the further truth that there were *in fact* denominational schools in the Province though not recognized by law. Is it not perfectly plain that the object of the modified clause introducing the words "or practice" was to make sure that the Local Legislature should not have the power to interfere with the privileges of those who in future might enjoy such schools?

Now it sometimes happens that an Act of Parliament does not have the effect that was intended by the body that enacted it. It is possible that this may turn out to be a case in point. I think it would not surprise us if it should be held, that this clause does not restrict the power of the Legislature to abolish, at all events, the denominational schools that were established by itself under the late system. Indeed, if I mistake not, the current of legal opinion in the Province is in that direction, and that view seems most reasonable. Yet it is by no means a certain conclusion that the Legislature can at the same time create a system that entirely excludes denominational schools. The truth is that here, as in the case of many other questions of constitutional law, it is not safe to affirm any positive opinion until it has been judicially decided upon by the court of ultimate resort. Take, for example, this view of the question: Catholics at the time of the union had denominational schools. These were supported by the Catholic Church and by the people who held to that faith. These people were not required to contribute a dollar to the support of any other schools or system of schools. One of the "rights or privileges," in fact, which that class of persons had in practice at

that time, was to give *exclusively*, so far as education was concerned, to the support of their own denominational schools. They are no longer free to do so. That privilege has been taken away from them. They are bound to pay taxes for the support of the public schools, to the exclusion of their own, and as a consequence, to the manifest injury, if not the ruin, of the latter. One may well hesitate I submit before coming to the conclusion, in view of the terms of the Manitoba Act, that our new law is really within our powers.

### THE NEW BRUNSWICK CASE

From the published report of the speech of the Attorney-General on the introduction of the Bill it appears that he spoke with considerable confidence as to its constitutionality. Such confidence on the part of the learned promoter of the measure doubtless goes far to assure us on the point. At the same time I may be pardoned if I make a reference to one part of his argument which I humbly think does not lead to the conclusion that he sought to draw. I refer to the New Brunswick case, which Mr. Martin quoted as a precedent tending to establish our right to pass the Bill. "In New Brunswick," said the Attorney-General, according to the report in the *Tribune*, "they have purely denominational schools. When the time came for that province to abolish denominational schools and to establish a system such as it was proposed to establish here, it was decided by the then Minister of Justice, Sir John Macdonald, by the Courts, and by the Parliament of Canada that under the provisions of a clause exactly similar to the one governing in this case, with the exception of the words 'or practice,' the legislature of the Province had a perfect right to sweep away all these denominational schools, and to bring the system down to the National system which it was proposed to introduce in this province."

Let us see how far this language of the Attorney-General is justified. Is it indeed true that denominational schools were established in New Brunswick; and was it in fact held that "under the provisions of a clause exactly similar to ours" with the exception named, the legislature of that province had a right to abolish denominational schools? I have read the New Brunswick case with some care, but I confess that I fail to find anything to justify such a statement. The truth is that so far from having been held that the New Brunswick Legislature had such a power under such a clause, it was distinctly held that such a clause never applied to or was in force in that Province. I was surprised to read in the Attorney General's speech, the statement that Sir John Macdonald, the Courts and the Parliament of Canada had decided otherwise. Neither Sir John Macdonald nor the Courts nor Parliament ever did so, so far as I can ascertain. Had the Attorney General examined the records, he would have discovered that when Sir John Macdonald was asked to disallow the New Brunswick Act of 1871 his reply contained this language:—

"The Act complained of is an Act relating to common schools, and the Acts repealed by it apply to Parish, Grammar, Superior and com-

"non schools. No reference is made in them to separate, dissentient or denominational schools, and I do not find that any statute of the Province exists establishing such special schools. As, therefore, the Act applies to the whole school system of New Brunswick and is not specially applicable to denominational schools the Governor General has no right to interfere."

The meaning of this language is perfectly plain. The provisions of the Act of Confederation restricting the power of the Legislature of the Province (sub-clause one above cited) applied exclusively to rights held by law in respect to denominational or separate schools established at the union. There were none such in New Brunswick, said Sir John, and the restraining clause therefore did not apply to that Province and did not, in consequence, limit the power of its Legislature.

To the same effect was the view of the Law Officers of the Crown in England, whose opinion on the question was sought by the Canadian Parliament. "The Roman Catholics of New Brunswick" wrote these Law Officers, "*had no such rights as are the subject of enactment in the British North America Act, section 93.*" That is to say, New Brunswick had no denominational schools established by law; the Confederation Act did not apply, and the power of the Legislature was therefore unfettered.

Again, the Supreme Court of New Brunswick, before which the case was fully argued, decided that the Act was constitutional on the very same ground, declaring, in the words of the Chief Justice: "*that the establishment of denominational schools was not recognized or provided for*" by law at the union. No other Court expressed a different opinion.

How far from correct, therefore, was the Attorney General in declaring that such a decision as he states was pronounced by Sir John McDonald or the Courts; and, as to the Parliament of Canada, it never was seriously suggested in that body that the first sub-clause of Section 93 applied to New Brunswick, and that its legislation of 1871 was on that ground beyond its powers. Mr. Costigan himself, who championed the cause of the New Brunswick minority in Parliament, rested his case mainly on the proposition, not that the law was unconstitutional, but that it was unjust to an important section of the Queen's Canadian subjects, and should as a matter of general Federal Policy be disallowed. The statements of the Canadian and Imperial Law Officers, of the Courts and of Parliament, in the New Brunswick case, are of value in their strong affirmation of the rights of the Provinces to legislate as to education generally; but a decision that the restraining clauses of the Confederation Act *did not* apply at all to the maritime province does not materially help us to interpret the meaning of a clause that is even wider, and that *does* undoubtedly apply to the Prairie Province. Granting that the constitutionality of the Act may by possibility be sustained, I am compelled to say that the strong statements of the Attorney General, based on the New Brunswick case, do not help to that conclusion.

## APPEAL TO OTTAWA.

Assuming, however, that the strictly constitutional question is decided in our favor, I see another and a greater difficulty before us. There is a further clause in the Act of Confederation, re-enacted with some modifications in the Manitoba Act, which affects the question very seriously. The third sub-clause of the same 93rd section of the Confederation Act is in these words: "Where, in any Province, a system of 'separate or dissentient schools exists by law at the union or is there-  
"after established by the Legislature of the Province, an appeal shall lie  
"to the Governor General in Council from any act or decision of any  
"provincial authority affecting any right or privilege of the Protestant  
"or Roman Catholic minority in relation to education."

By the terms of this clause it will be seen that there are two cases in which an appeal will lie to the Governor in Council. First,—Where in any Province separate schools existed by law at the union. Second,—where such a system was established after the union by the provincial legislature. Now the framers of the Manitoba Act must have seen, and Parliament must have seen, that this clause could not certainly at that time, and possibly might never, apply to Manitoba. The first condition could not apply at all because it was not even a province till the union was accomplished, much less a province having separate schools existing by law. The second condition could not apply unless and until the legislature should establish such a system, which it might never do. It would have been useless, then, to adopt the clause as it stood for Manitoba. It was determined, therefore, as it would appear, to modify it so as to ensure a right of appeal to the minority here beyond all doubt. This was done by striking out the two conditions entirely and making the clause read in this plain and simple language:—

"An appeal shall lie to the Governor General in Council from any  
"Act or decision of the Legislature of the Province, or of any provincial  
"authority, affecting any right or privilege of the Protestant or Roman  
"Catholic minority of the Queen's subjects in relation to education."

Once more we must give the amended legislation a meaning, and who can doubt that it was intended and that it has the effect, to give to the Catholic minority in Manitoba an absolute right of appeal to the Governor General in Council against any legislation affecting their rights in relation to education. And who will say that our new law does not affect the privileges claimed by Catholics? Let me further point out that the elimination of the two conditions was not the only amendment made to the clause in question. As it appears in the Imperial Statute, the clause provided for an appeal from any act or decision of any provincial authority. Nothing is said about an appeal from provincial legislation. It seems indeed as if it simply aimed at securing the right to appeal from executive or administrative acts of the provincial authorities in the carrying out of the law. Parliament, however, seemed bound to make sure, in the case of Manitoba, that there should be an appeal

against provincial legislation, and so the clause was made to provide expressly for such an appeal.

Granting once more that there is a possibility of a decision that sub-clause one, even as modified in the Manitoba Act, does not restrain us altogether from legislating in the direction of abolishing separate schools and creating a system that does not permit of their existence, is there any doubt that under sub-clause three the Roman Catholics have a clear right of appeal from our new law. Failing to succeed on the constitutional question, is there any doubt that they will make the appeal, and if the appeal is made

### WHAT IS LIKELY TO BE THE RESULT ?

Let us first understand clearly what this right of appeal means. It must not be confounded with the power of disallowance, which is simply a prerogative right that enables the Governor General, on the advice of his Council, to veto legislation that the Dominion Executive have no authority to alter or modify in the slightest degree. An appeal under this clause, on the other hand, gives the Dominion Government complete authority to deal with the question, as one within its own jurisdiction, and it may decide that the law passed by our Legislature must be changed or modified in accordance with its own views. In other words, the opinions of the Dominion Government are to prevail, in this particular case, over those of the Legislature of Manitoba. And in order to give the Federal Executive an effective means of carrying out its views, it is provided in the next sub-clause, that if the Legislature of Manitoba shall fail to make the law conform to what is demanded by the Ottawa Government then the Parliament of Canada shall have the right to pass remedial legislation that will have that effect.

The result is that our power to legislate in the direction of abolishing separate schools, if we have it at all under sub-clause one, is not final, but is subject to be decided in the end by the Parliament at Ottawa. Remember that we cannot, under our constitution, object to that Parliament dealing with the question. Let no one be carried away with the thought that we can fight the Dominion authorities in this case, as we did in the disallowance matter. There we were fighting for our rights and for the maintenance of the constitution. The power of Manitoba to charter the Red River Valley Railroad was subject to no appeal to any higher authority that might change or modify the charter. In the case of the Education Act, however, our jurisdiction over the question is limited from the out-start, and has gone—for the time, entirely, the moment an appeal is entered. Under the appeal the Dominion Government first, and then the Dominion Parliament, in a certain event, has the absolute right to deal with the question. In such a case the Parliament at Ottawa has the same right to pass remedial laws to give effect to the opinions of the Federal Executive, as it has to pass laws relating to the Customs Tariff, or the Department of Dominion Lands. And the reversal by the Federal Government and Parliament of any part of our new Act



affecting the rights thus protected would not be an interference with provincial rights but the exercise of a power expressly conferred upon them by the constitution, and the exercise of which they have no right to refuse to the appellants.

### A PRECEDENT.

Have we any precedent to guide us in forming an opinion as to the probable action of the Government and Parliament of Canada in dealing with our School Act under an appeal? I think we have a very suggestive, if not a conclusive one, in this very New Brunswick case. Probably the Attorney General was not familiar with this phase of it, else he would have given it a wide berth, instead of courting enquiry into its history.

### THE NEW BRUNSWICK CASE IN 1872.

I have already made casual reference to the action of Mr. Costigan in Parliament, in seeking to have the Act of 1871 disallowed. He made his motion in that direction in the Commons in May 1872, Sir John Macdonald being then in power. After several amendments had been moved and voted down, Mr. Colby, a leading Protestant Conservative representing a Quebec County, and now a member of the Dominion Government, moved an amendment in these words:—

“That this house regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province and hopes that it may be so modified at the next session of the Legislature of New Brunswick as to remove any just grounds of discontent that now exists.”

This amendment was on the 29th May 1872, carried by the decisive majority of 117 to 52, the leaders on both sides, if I mistake not, supporting it. I may explain that while in New Brunswick before the passing of the Act complained of, there were no denominational schools established by law, yet the educational authorities had been allowed to pass regulations which practically enabled Catholics to have denominational exercises in the public schools in the Catholic districts. Mr. Edward Blake in the course of the debate on the question used this language:—

“Although the system of denominational schools was not actually established by law, still denominational teaching in the public schools was practically acknowledged, and he (Mr. Blake) deeply regretted the course pursued by the legislature of New Brunswick in inserting in the new School Act a clause providing that every school under that Act shall be non-sectarian. He understood that there were large sections of New Brunswick where the people were exclusively Roman Catholics, and the elasticity of the old law allowed those communities to conduct their schools according to their own views. The change in the law as it operated upon the Roman Catholics was a harsh change and was not necessary to satisfy the scruples of Protestants.”

The House of Commons by a vote of more than two to one declared its assent to these views of Mr. Blake. In other words, the Commons of Canada protested in the strongest terms against the action of the legislature of New Brunswick in depriving Roman Catholics of privileges that they had practically enjoyed in the past, although they had no legal sanction for them. It was enough for the Parliament of the Dominion to know that for many years the minority had "in practice" at least, enjoyed these advantages, to move its members to protest thus earnestly against their being taken away.

The New Brunswick Legislature, however, adhered to its new law and declined to act on the advice of the Commons. I confess that my sympathy was with the Legislature. It had a clear and undenied right to pass the Act. It represented the people of New Brunswick, and was elected to deal with just such questions, and I doubted the propriety of the Commons tendering its advice unsought. I am citing the facts, however, simply to show how opinion at Ottawa ran on the question.

#### THE SAME CASE IN 1875.

But this was not the end of it. The matter came up once more in 1875, the Liberals being then in power. Mr. Costigan moved at this time, not for disallowance, but that the Queen be memorialized to amend the British North America Act so as to provide that the Catholics of New Brunswick should have the same rights in respect to Separate schools as were enjoyed by the Catholics of Ontario and the Protestants of Quebec. To this motion an amendment was proposed by Mr. Cauchon, seconded by Mr. Blake, as follows:—

"That on the 29th May, 1872, the House of Commons adopted the following resolution (setting out the one already quoted). That this House regrets that the hope expressed in said resolution has not been realized, and that an humble address be presented to Her Most Gracious Majesty the Queen, embodying this resolution, and praying that Her Majesty will be graciously pleased to use her influence with the Legislature of New Brunswick to procure such a modification of the said Act as shall remove such grounds of discontent."

This amendment was carried by the solid vote of 114 to 73. More than half of the minority voted against it, not because of want of sympathy with the complaints of the Roman Catholics of New Brunswick, but because it did not go far enough to meet such complaints. Mr. Costigan himself, as well as all the French Conservatives, voted against the amendment. The division proved, in fact, that the House, in the proportion of over four to one, went as far, at least, in the direction of demanding Separate Schools in New Brunswick, as the language of the amendment declared. And what did that declaration mean? This, indeed, that the House of Commons regarded the action of the New Brunswick Legislature as so harsh to Roman Catholics that not only did it feel called on to address a strong remonstrance to that body in 1872, urging a redress of the grievance; but failing to accomplish that purpose,

a new House of Commons deemed it proper in 1875 to call on the Queen herself to interfere, and to plead with the Legislature of that Province to undo the alleged wrong. And on what grounds did the Commons take this position? In the first place, as Mr. Blake put it in 1872, they were moved by the fact that the Roman Catholic minority had in the past enjoyed the privilege of giving religious education in the public schools of districts peopled by themselves. The withdrawal of that privilege, though quite constitutional, was deemed harsh. But in the next place, I cannot doubt that this further circumstance weighed much with the Commons in passing judgment. The Separate School question had been fought out in Old Canada prior to Confederation. Shortly before the union was consummated, and after a bitter struggle extending over many years, the question seemed to be settled for a time by the passing of the Public School Act of 1863, through a combination of the Catholic and Conservative vote against the most strenuous opposition of the Protestant Liberals. Two years later, in adopting the scheme of union, all parties in the Parliament of Canada accepted the terms of the Act of 1863 as a final settlement of the vexed question, as far as Ontario was concerned, while provision was made for giving the Protestants of Quebec dissentient schools under their own control. In order to perpetuate the system thus settled on in these two Provinces, the clauses of section 93 of the Confederation Act were agreed to, so that the local legislatures might not have the power to re-open the settlement. Now it was very natural that the great majority of the members from Ontario and Quebec (and they formed a great majority of the Commons) having assented to a certain scheme as being on the whole the best that could be got to suit all classes in these two Provinces, should feel that the same scheme would be the best settlement for any other Province containing a mixed population. It was therefore not surprising that the House of Commons, when asked to advise disallowance of the New Brunswick Act, or to seek a change of the Constitution, though admitting that there was no justification for the veto, should urge, as a solution of the difficulty, the same compromise that Ontario and Quebec had agreed to. This view of the matter was presented to the Commons in the debate of 1875 by the then leader of the House and the Government, the Hon. Alexander McKenzie, and I quote the following from his speech at that time:—

"I believe in free schools, in the non-denominational system, and if I could persuade my fellow countrymen in Ontario and Quebec or any other province to adopt that principle, it is the one I would give preference to above all others. \* \* \* For many years after I had a seat in the Parliament of Canada I waged war against the principle of separate schools. I hoped to be able—young and inexperienced as I then was—to establish a system to which all would yield their assent. Sir, it was found to be impracticable in operation and impossible in political contingencies."

Mr. McKenzie proceeded to refer to the Act of 1863 and to the compact entered into for embodying the principle of it in the Confederation, and continued as follows:—

"I heartily assented to that proposition, and supported it by speech and vote in the Confederation debate, and Sir, the same grounds which led me on that occasion to give loyal assistance to the Confederation project, embracing as it did a scheme of having separate schools for Catholics in Ontario and for Protestants in Quebec, caused me to feel bound to give my sympathy, if I could not give my active assistance, to those in other provinces, who believed they were laboring under the same difficulties and suffering under the same grievances that the Catholics in Ontario complained of for years."

It was in sympathy with the view thus presented that 114 of the members of the Commons, though unwilling to go so far in aiding the Catholic minority as 40 or 50 other members were, stood up to express regret at the action of the Legislature of New Brunswick, and to beg of their Sovereign to use her influence to persuade that body to provide separate schools for Catholics. Among the members who at that time sat in the House applauding these utterances of the Liberal Leader, and who in the division stood up with him and voted for the resolution of Messrs. Cauchon and Blake begging of the Queen to interfere, so as to secure separate schools for the Catholics of New Brunswick, was *Mr. Thomas Greenway*, then representing South Huron in the Commons, and now filling the high position of Premier of Manitoba.

Again I wish to say that the action of the Commons seems a little out of place. It was admitted that the Legislature had the exclusive right to legislate in the matter, and the Federal Parliament had no control whatever over it by appeal or otherwise. The Commons interfered in the matter without authority and without invitation. The only justification one can suggest for its action would seem to be that it was a means to prevent the adoption of Mr. Costigan's more dangerous proposition, which would probably have prevailed over a simple negative vote. It was better to tender a bit of advice to New Brunswick even unasked, than to call on the British Parliament to interfere with the rights of the Local Legislatures under the Constitution.

When we find the Government and Parliament of the Dominion in 1872 and 1875 taking such a strong stand in a matter beyond their right and without solicitation, is it likely they will fail to be equally decided in a case like ours which they are bound to hear and decide by way of an appeal expressly provided by statute, and where we have for nigh twenty years by our own law provided denominational schools for Catholics.

I very much fear for my part that this great question, instead of being happily settled, as many of you perhaps may have imagined, is only beginning to be opened up. We shall have in the first place, a struggle in the courts which will doubtless be appealed from one trib-

unal to another until a decision is reached at the hands of the Privy Council; and then we shall, if the case is decided in favor of the Province, have this appeal under sub-clause three to the Dominion Government, probably then to the Dominion Parliament. From either of these bodies I see nothing to expect on our part but a decision adverse to the spirit of our recent legislation. I see no reason to doubt that the majority of the Commons will still vote as our own Mr. Greenway did in 1875. And by legislation of the Dominion Parliament we shall, in that event and to that extent, be absolutely bound. In other words we have not the power, I repeat, to legislate finally on this question, and our legislation is liable and likely to be reversed by an appellate power. And you and I without abating one jot our preference for, and support of, a purely national system of schools, and while approving the new law, if passed under other conditions, may well doubt the wisdom, to say no more, of passing legislation that is likely to lead to the question being made a foot ball between parties and factions in Dominion politics, with the almost certain result of having our opinions reversed at Ottawa.

#### CIRCUMSTANCES CALLING FOR PRUDENCE

But even if we had the absolute power to pass the recent legislation, and if there were no constitutional restraints limiting our right to do so, and that without appeal; are there not circumstances in our present position that suggest a doubt as to the prudence of our action?

It is not, I think, too much to say that there are circumstances which might well have decided us not to act in the matter at least without very grave deliberation. The Catholics have for nearly twenty years past enjoyed the privilege of denominational schools, a privilege secured, as they at least thought, by the Constitution and provided for them at all events by our own Legislature. This privilege has been continued during all these years by the common consent of all classes, practically without a protest. The long enjoyment of a particular privilege by a class of people, under legal authority, is usually taken to give some colour of right to a claim for its continuance, unless, indeed, a change of circumstances arises which makes its continuance a wrong to other classes. Especially is this the case where the privilege has been granted to a class who claim it as a matter of right. It is one thing to refuse special privileges to any class on the establishment of a system for the first time; it is quite a different thing to take away a privilege long enjoyed by law and by common consent. It is all the more difficult, I repeat, when it is a case in which the classes who enjoyed the privilege claim to have had it conferred upon them as a matter of compact or treaty, even though they may fail to justify the claim. This question of continuing or abolishing separate schools is one in which we have to deal, not simply with what we may justify as right in the abstract—we have to consider also what, in view of our mixed population, our diversity of opinion and our actions in the past, is expedient and politic. We have to consider what is likely

to give the greatest satisfaction, on the whole, and in view of all the circumstances, to all classes. We are not legislating for a homogeneous people, nor for a people that we can by Act of Parliament weld into homogeneity.

We are not called on under any circumstances, as I think, to abandon the position that it is the right and duty of the State to control, as well as to provide for, elementary education. Nor is the fact of the existence of Separate Schools for many years to be taken, necessarily, as a bar to their abolition; if their abolition will, on the whole, work for the greatest good of both Catholics and Protestants, and if their continuance will clearly work for evil. But we ought very carefully to consider, not only whether we are really able to accomplish such abolition, but also how far it will bring about the good we aim at.

### A PARALLEL

In discussing this phase of the question I must refer once more to its history in old Upper Canada. That history affords a striking parallel to our own case. For ten or twelve years the Catholic minority in Upper Canada had enjoyed denominational schools with the concurrence of all classes. Then an agitation arose for their abolition and, as might be expected, this was at once followed by a bolder and more aggressive attitude on the part of the hierarchy in their support, and in denunciation of the public system. It has ever been one of the lessons taught by experience, that an attack on institutions that are by any class of people held dear, has the effect of rallying such people to their support and to a resistance of every effort to destroy them. The more determined the attack, the more surely are the ranks of the defending party closed up for such resistance. In Upper Canada the fight for National Schools was ably and vigorously led by the then Liberal Leader, George Brown, backed by the entire Liberal Protestant vote, and by not a few Independent Conservatives. But the leaders of the latter party joined hands with the Catholics, and aided by the French vote from Lower Canada, they succeeded in passing the Scott Education Bill of 1863. I have already referred to the fact that this measure, which was to some extent a compromise, was afterwards accepted as a final settlement of the vexed question by all parties.

### DR. RYERSON'S VIEWS.

Amongst the prominent men of the time who took part in the discussion during the agitation, was the Rev. Dr. Egerton Ryerson. This distinguished man, for over thirty years, filled the position of Chief Superintendent of Education for Ontario with consummate ability and success, and he was the founder in fact of the system in that Province. As many of you know, he was an eminent clergyman of the Methodist church. He was a Protestant of the most pronounced type, and he most vigorously resisted what he deemed to be the aggres-

sive encroachments of the Catholic Church. Any disposition he may appear to have shown in the way of making concessions to Roman Catholics, can scarcely, therefore, be attributed to what is sometimes described as "truckling" to that church. At the time I speak of, some provisions of an objectional character, relating to Separate Schools in Upper Canada, had been carried in Parliament by the votes of French members from Lower Canada. This fact tended to embitter the feeling of Upper Canadians against the entire Separate School system, and the agitation for its abolition waxed hot. In connection with this agitation Dr. Ryerson, in 1858, wrote as follows:—

"It is not surprising that a deep and general feeling should be awakened in the western part of the Province, and that many persons who have been all along assenting parties to the Separate School provisions of the law, should resolve to sweep these provisions from the statute book. \* \* \* But in this view I cannot concur."

He goes on to give his reasons for this attitude, resting his opinions mainly on the fact that Catholics had so long enjoyed Separate Schools, that it would be an injustice to them to take them away. In support of this view he proceeds to say:—

"Giving corporate powers to a large religious community, and taking away those powers, are two different things. And though the conferring of them in the first place may have been unwise and objectionable, yet depriving the parties of them after they have received and enjoyed them, may be still more unwise and objectionable. It would be a grave offence indeed, on the part of one of our religious communities, that would justify the repeal of their college charter, whether it were wise to grant it in the first place or not; and it should be an offence equally grave that would justify the repeal of the rights granted by the establishment of Separate Schools."

These words of Dr. Ryerson may help us to realize that there may be doubts as to the wisdom of our course, and that we should not be lulled into the idea that our Government and Legislature have finally settled the question for us. Dr. Ryerson's language will have more weight too, when we reflect that there was no constitutional difficulty at that time standing in the way of the abolition of Separate Schools, while there was no pretence that the Catholic minority had any constitutional or statutory right to demand their continuance. The Ontario Catholics, in fact, had then no such case to support their claims as their co-religionists in Manitoba have to-day.

I am quite convinced that the opinion of the great majority of the people of Manitoba is most pronounced in favor of a national system. I am convinced that the action of the Government in the matter has been generally approved, on the assumption that it was constitutional; and I believe there has been a very general feeling, and that not an unreasonable one, that a time like the present, when the

Ministers of the day have a strong backing in the House, was the proper time to bring about the change, assuming that it could be legally and fairly done. But I have from the beginning been conscious of such difficulties in the way that I was unable to see any reasonable hope of ultimately attaining the desired end. That end I take it, is a harmonious union of Catholics and Protestants under a uniform system. An ideal system theoretically is a good thing to aim at, but in practice we have to seek rather a system that can be worked with success. In the matter of education, more perhaps than any other questions with which we have to deal, the ultimate success of the system is dependent upon the extent to which it is approved by all classes and denominations. Our purpose I repeat is not simply to abolish Separate Schools but to establish schools which will unite Catholics and Protestants in happy unison. My doubt is whether that can ever be accomplished by coercive legislation such as we have just passed, and whether that legislation under existing circumstances will not in fact tend in exactly the contrary direction.

#### ESSENTIALS IN A PROPER SYSTEM.

I think there are certain propositions which should be laid down as the foundation of a sound school system. And first of all, the State should provide for the establishment of schools for elementary education, available to all classes on equal terms. Then, the State should give such liberal aid as the public treasury can afford, for the purpose of furnishing such education. That aid should be given with the single view of furnishing education in secular branches. The State should regulate and control the administration of the system generally, including the qualification of teachers, the subjects of secular study, the choice of text books and the conduct and inspection of schools. The State should in fact see that, as far as can be, the full measure of secular education shall be furnished in all schools receiving public aid. Then no rate-payer in a school district should be exempt from liability to pay rates, because of his belonging to any particular denomination. These conditions being fulfilled, I see no reason why provision should not be made for religious exercises in the schools; and while our ideal is a system in which these exercises shall be absolutely uniform and non-denominational (if that be a possible thing), I can see no very serious objection, if under certain circumstances they partake of a denominational character. Assuming that one of the municipalities in Russell had been colonized by the Methodist Church and that all the children in certain districts in that municipality were those of Methodist parentage; would it in such a case be a very serious wrong, if the religious exercises in the schools of these districts were modelled after the teachings of John Wesley? And what if the Methodist Minister of the district should once a week, or once a day for that matter, give the children an hour of teaching in religious truth following the same worthy model? I venture to say it would be a good thing for these children to have such a privilege. I do understand that it is a necessary condition of a national plan of education



that the truths of Christianity should not be systematically taught within the schools. Practically it is difficult to have it so in most Anglo-Saxon countries, because of the division of Christians into so many sects. From this fact, indeed, the whole difficulty arises. Were we all of one sect it would not exist. It would be quite proper, and surely advantageous if it were practicable, to have elementary education accompanied with teaching of a religious character; but because of our divisions we demand that "equal rights" be extended to all, and as the only practical way of reaching this condition, perhaps the majority of us conclude that it is better to have non-sectarian schools. But if we have a large district in which the population is all Catholic or all Protestant, I do not understand that there is any serious objection to the schools in such district having religious exercises of a denominational character—I mean denominational as between Protestantism and Catholicism.

### A PRACTICAL NATIONAL SYSTEM.

Now, this consideration suggests, it seems to me, a system which, while avoiding the defects of the old plan, and the objections of Roman Catholics to the new one, may give fair satisfaction to both sections of the population, and that without yielding any of the essential features of a truly national system. If we go into the French Parishes on the Red River, we find them chiefly peopled by French speaking Catholics, and if the new public school system is imposed on them their schools will as heretofore be mainly attended by Catholic children. The trustees will be French speaking Catholics and the teachers will be the same. Now, assuming that the provincial authorities see to it that the teachers of these schools are properly qualified, that the work of secular education in them is as far as possible fully and properly carried out and that in all respects, in so far as secular education is concerned, they pass the inspection of the State; what great practical wrong is done by permitting the children of the Parish to receive in their schools religious education in accordance with the Catholic faith? And what if the teachers of these parish schools should have a badge of approval at the hands of the hierarchy, indicating that they are accepted as proper teachers of the Catholic catechism as well as of the national course of secular study? To what extent would the public schools of the rest of the Province be injured, or injustice be done to the children attending these public schools, if, in every Catholic district in the Province, where the schools are wholly attended by Catholics, the church were allowed to prescribe and to conduct its own exercises; so long as the full measure of secular education demanded by the State is supplied to every child? And what if the Legislature should declare that these schools in the Catholic districts are to be regarded as "separate" for the purpose of religious exercises, from the public schools which are acceptable to all other denominations, but in which Catholic exercises may not, any more than any other sectarian exercises, be allowed? And, if we go thus far, what more is practically involved in permitting Roman Catholics, where they have a population large enough for that purpose, to form a school exclu-

ively for Catholic children, in which they shall enjoy these privileges? I am assuming that such Separate Schools, as we may term them, could only be established under conditions to be regulated by the Legislature, and, amongst such conditions, I assume would be these:—Every school district created by the State would be *prima facie* a public school district, and the Separate Schools would only be established by the voluntary action of the Catholic rate payers where they are sufficiently numerous within a certain and reasonable radius. Every Catholic rate payer even within such district, who did not by his own wish and act attach himself to the Separate School; and every Catholic ratepayer, without any exception, not within the district, would be a supporter of, and taxed for, the public schools. I am assuming that in so far as secular education is concerned, these separate schools would be under the control of the State. The State would declare the secular qualification of teachers, which would be the same as for public schools; the State would conduct their examination as to secular qualification just as in the case of public school teachers; the State would provide for and carry out the inspection of these schools, just as in the case of public schools; and the secular text books which would be altogether approved by the State, would be, in the main, if not altogether, the same that are prescribed for the public schools. The administration of the separate schools would, in fact, except as to the matter of religious instruction, be in the hands of the same Board or Department of Education that manages the public schools. In truth, such schools would form a section of the public system, for purposes of secular education, which alone the State should take part in; but they would be "separate" from the public schools in so far as they would be permitted to include Catholic religious instruction under the control of that church, in their course of training. A national system with a separate element such as this, is not your ideal nor mine; but we are now looking for a practical system where the ideal cannot be had or is impracticable. Is there really anything that looks very hurtful from a practical standpoint in all this; anything to mar very seriously the public schools of the land; anything to threaten ruin to our educational system; anything that endangers the Protestantism of the majority? There is in it, undoubtedly, a departure from the true ideal; a departure that comes from yielding to the demand, perhaps unreasonable, of Roman Catholics; and it involves, as I think, giving them special privileges—privileges, however, that in the estimation of most of us, will work only to their own injury, in that they will be, as we think, practically unable to bring up the separate schools to the standard of the public schools for secular education. Because of these and other objections, some of which I have indicated, I would, if we were establishing a plan of education in the country for the first time, and if we were untrammelled by any constitutional restraints, or by any limitations of our power in the premises, most earnestly oppose the creation of a separate system. I would follow rather, the enlightened example, as I think it is, of our American neighbors, in building up a truly national plan of secular education with absolute equality between all denominations.

But when I look at the experience of Ontario and the result of the agitation there—when I read the utterances of great Statesmen and fairminded men, confessing that time and experience has taught them that the ideal national system which they had supported with the warmest enthusiasm in their days of "youth and inexperience," was "impossible of attainment and impracticable in operation"—when I recall the compact entered into in Ontario and Quebec, as the best solution of a difficulty they had struggled with for a decade, that compact being entered into by the best minds in the Provinces—when I know that the intention of Parliament in creating this Province, (by repeating, in terms that were made applicable to our position at the union, the restraining clauses of the Confederation Act,) was to secure to Catholics here the same rights that were by that compact guaranteed to those in Ontario—when I know that the Catholic minority relied on such being the meaning as well as the intention of the law—when I reflect that the only possibility of our having the power to abolish separate schools lies in the chance of the Manitoba Act not having the effect intended at the time it was made law—when I consider that even that possibility has to be settled by litigation, to be carried at our expense through all the courts to the foot of the Throne, and to be determined perhaps in the end against us—when I am reminded that in any event our power to legislate is not final, but subject to appeal to the opinion of the Dominion Executive and of the Dominion Parliament against the opinion of our Legislature—when I read once more the urgent appeal made by the Dominion Parliament to the Legislature of New Brunswick, (that was in no way restricted as to its powers, nor hampered by past legislation), that it might concede separate schools in a province where they had never been established—and when I am met by the fact that in pursuance of the provisions, of our Constitutional Act, our own Legislature, with unanimous vote nineteen years ago, created denominational schools here, which the minority have continued to enjoy under our own laws ever since—I say that when I consider all these circumstances, and I am bound to give them consideration, I have not the shred of a doubt, that the more prudent course would have been to offer to the minority a concession in the shape of a system such as I have described, rather than venture on so turbulent a sea as we are now sailing into.

#### THE SYSTEM OF 1863, IN FACT.

Nor let it be thought that we have no precedent for such a system. It is in fact nothing more nor less than the system established in Ontario in 1863; the system which has there prevailed with a few modifications for more than a quarter of a century, and had with various limitations, prevailed for nearly a like period before that time. It is the system that with all its defects, and with all its departures from the ideal non-sectarian plan, enables the premier province of the Dominion to-day to boast of a standard of general education second to no country on the globe; which reflects the very highest credit on the statesmanship of her public men; and which at this moment stands higher in the estimation of her own sons than it has done at any time in her past history.

## RECORD OF THE ONTARIO SYSTEM.

There is something very remarkable in the record of that system in Ontario. I have stated that at its passage it was opposed by a majority of the representatives of the province in the Parliament of the United Provinces of Upper and Lower Canada, by almost the entire Protestant Liberal vote and by a number of Conservatives. Forced as it thus was on the Province by the votes of the members from Quebec, against the protests of its own representatives, one would have expected a continued agitation against it. The striking fact however, is, that during the twenty-seven years that have elapsed up to the beginning of this past winter, not one voice has been raised, I may fairly say, in the whole extent of that Province demanding the abolition of separate schools. The leader of the crusade for their abolition before 1863 was, as I have said, the late Hon. George Brown. Like Mr. MacKenzie he was, in his younger days, a most enthusiastic believer in the ultimate possibility of uniting Catholics and Protestants under one National System, and he carried that enthusiasm into a great struggle to bring about that end. He carried on the fight till over his head the Bill of 1863 was made law by the votes from Lower Canada. But like Mr. MacKenzie he realized as years rolled on the utter impracticability of uniting people of such hostile creeds by coercive legislation when the claims of the minority had been so long conceded, and he accepted the provisions of the law of 1863 as a final compromise. Speaking in the Confederation Debate Mr. Brown said :—

"I need hardly remind the House that I have always opposed, and continue to oppose, sectarian legislation so far as the public chest is concerned, \* \* \* but I have always admitted that the sectarian system, carried to the extent it has been in Upper Canada, had not been a very great public injury. \* \* \* An Act was passed in 1863 as a final settlement of the controversy. I was not in the House at the time but if I had been I would have voted against the Bill."

Mr. Brown went on to say that this measure was accepted as a compromise by all parties, and intended to be perpetuated in the Confederation scheme. Then, replying to a remark of Mr. T. C. Wallbridge, he continued :—

"Let the honorable gentleman introduce a Bill to-day to annul the compact of 1863, and repeal all sectarian school acts of Upper Canada, and how many votes would he get for it? Would he get twenty out of 'the hundre' and twenty who compose this House."

I have no hesitation in expressing it as my own opinion that the establishment of Separate Schools at that time was a mistake. I have always held to that opinion, but the fact remains that it was so decreed, and the result was incorporated into the Confederation scheme, and from that day to this the separate school provisions of 1863 have been accepted by all parties as a final settlement of the whole vexed question.

## AMENDMENTS IN ONTARIO LAW.

It is true that urgent demands have been made by a very considerable section of the Ontario electorate, within the past few years, for certain amendments to the law—but nothing more. And indeed, that demand has been practically confined to an amendment in this one particular only:—By the Act, as passed in 1863, every Catholic ratepayer was to be deemed a supporter of, and to be taxed for, the public schools, unless and until he of his own voluntary act, took steps to be attached to a Separate School. It was alleged that amendments had been made after 1863, the effect of which was to make every Roman Catholic *prima facie* a Separate School supporter, and that he could only cease to be such by making a special application for that purpose. Even as to this objection, however, it may be remarked that having come before the Courts, it was held, as Mr. Mowat had always maintained, that the amendments in question had no such effect. So that even that objection appears to have been without foundation.

Of the fact, at all events, that the demand in Ontario was for amendment only, and not for the abolition of the Separate School system, the evidence is abundant. If we were to find any demand for abolition, it would surely be amongst the most pronounced Protestants in that Province—the most active opponents of Romish aggression. Nowhere, I am sure, can we find stronger representatives of this class, than in the Equal Rights Association and in the Orange Body; and no objection can be made to taking as an individual representative of that school of opinion, so prominent an exponent of it as Dalton McCarthy. Let me refer you to the opinions of these two bodies and of that distinguished public man.

## EQUAL RIGHTS OPINION.

In June, 1889, The Equal Rights Association held in Toronto its great convention, at which the members adopted their platform. The convention was attended by over 800 representative Protestants of the most decided type, and they considered and pronounced upon the public school question. Did they demand the abolition of Separate Schools? By no means. A motion for their abolition was indeed presented for consideration, but it was promptly suppressed; and the following resolution was adopted, and is a plank in the platform of the Association to-day:—

“ We record our approval of our national system of public schools in this Province, and we insist that every ratepayer should be deemed a supporter of the public schools, unless he himself, of his own free will signifies his desire to be ranked as a supporter of Separate Schools, and that the Act should be so amended as to be most explicit on this point.”

It is a striking fact that the mover of this resolution, approving of the Ontario school system was no other than Mr. J. J. Hughes, the de-

feated Equal Rights Candidate for Peel, in the recent Ontario election. And in order that there might be no doubt as to his position at that time, Mr. Hughes said, according to the *Mail* report of his convention speech:

"So long as separate schools existed legally it would be impossible to interfere with them, but the citizens should demand that until a man objects he should be ranked as a supporter of the public schools."

### OPINION OF ORANGEMEN.

The members of the Orange Order in the Ottawa Valley to the number of 4000 met in the Dominion Capital, on the 5th of November, 1889, and were addressed by the Rev. Mr. Wilson their Chaplain, by the new famous Col. O'Brien, M. P., and by others, after which they passed this resolution on the motion of Rev. W. G. Crothers, seconded by Rev. F. W. Farries: "We would strongly urge the Government of Ontario to \* \* \* \* \* remove all indefiniteness in the school law so that every rate-payer shall be deemed a supporter of public schools, unless of his own free will he desires to rank as a supporter of separate schools."

### MR. DALTON MCCARTHY'S VIEWS.

In his speech at the great Equal Rights meeting in Toronto in October, 1889, Mr. Dalton McCarthy addressed himself to the school question and used this language:—

"He endorsed all the things set forth in the platform of this association, especially that the separate school law was to be placed beyond question of doubt. The Roman Catholics had a right to separate schools, and he would not, for the present, raise his voice against that right guaranteed to them by the Constitution; but there was no guarantee in that Constitution, and it was not their right and privilege when the Act was passed, that any priest or any person should have power to say that this man and that man were Separate School supporters and put them to the trouble of having to go and put themselves down as public school supporters."

The views I have just cited were in line with all the opinions that had recently been expressed in Ontario by the strongest opponents of Catholic aggression in that Province. You will see that they are entirely in accord with each other. They demanded the amendment of the laws relating to Separate Schools. It may indeed safely be said of every one who assented to the resolutions and statements I have quoted, that he wished for their abolition, but the point is that under existing circumstances they declined to enter on an agitation for that end.

It is to be observed that during the past winter and spring and with a view, as many suspect, of arousing a feeling against the Mowat Government, during the recent Ontario elections, statements were made and declarations of public opinion were sought, in favor of such an amend-

ment of the Constitution as would give to Ontario the power to regulate wholly her educational system. This, avowedly, was suggested so as to empower the legislature to abolish Separate Schools, but the suggestion has met with no encouraging response. The demand for such a constitutional amendment can scarcely be said to have taken a recognisable shape. The agitation, in fact, is "without form and void." The Protestant constituencies have pronounced against it with most decisive majorities. The council of the Equal Rights Association, it is true, took up the cry, but no convention of the body was called, so far as I know, in order to reconsider the resolution of June 1889, and it still stands as the official opinion of the Association. A little reflection will, I think, convince the leaders in the movement for constitutional changes, if we can call it such, that there can be no hope of the Imperial Parliament ever assenting to such a thing. Ontario will, I have no doubt, stick to the present system; and we may confidently look forward to seeing Mr. G. W. Ross bending his efforts very earnestly for the next four years, to bringing up the grade of the Separate Schools as near as possible to the same high standard that characterizes the public schools.

Let us not lose sight of the real objection we have against separate schools. It is not, I repeat, that we object to religious instruction in schools on its own account. It is because systematic and doctrinal religious teaching, that will satisfy all sects, in a uniform system of schools, is impracticable owing to our religious divisions. And we deem it a departure from the principle of "equal rights" when we appropriate public monies to the support of schools of one particular denomination, not controlled by the State, but directly by the Church. This objection was minimized in Ontario under the scheme of 1863 by placing the schools under the control of the State as already described. The objection could be even lessened, as I confidently think, in Manitoba. I see no reason why separate schools here, governed as under that scheme, should not be made to meet fairly (I fear not perfectly) all the requirements of the State for secular teaching as imposed on public schools. Under a system so governed, the demand of the Anglican Bishop of Ruperts Land in his address to the Synod last winter would be met when he said:—

"If separate schools are to be aided by the State, the State should have the same security for a sound secular education in them as in its 'other schools.'"

Mr. Meredith, the Conservative leader in Ontario, not long since, in discussing the amendments that he desired in the separate school law, said that "All schools, whether public or separate, Protestant or Catholic, supported by public money, should have one uniform system of instruction, and be entirely under the control of the State." The uniform system of instruction referred to by Mr. Meredith of course related to secular instruction, and the plan before us would just satisfy what he called for.

## CO-EDUCATION OF PROTESTANTS AND CATHOLICS.

But another objection which is taken against Separate Schools is, that they prevent the children of all sects from being educated together, thus creating divisions in society which work injury to the State. I entirely agree that the commingling of all the children in the land in the same public schools would be a most desirable thing. Anything which hinders "the unity of the community" is a hindrance to the progress of the State. Is this unity going to be promoted by the enforced abolition, under existing circumstances, of denominational schools for the Catholic minority? Let us look this matter calmly in the face, and see how far we can ascertain the probable effect of our present legislation. Let us first look at the effect of the separate school system in Ontario as to this question of unity. In that Province about one-sixth of the population is Roman Catholic. They have had separate schools there for nearly fifty years. During all these years the Catholic Hierarchy have been exerting their influence with the laity of that church to withdraw their children from the public schools. With the extraordinary influence that we usually credit the clergy with being able to exercise over the faithful, we would expect that, long ere this, nineteen-twentieths at least of the Roman Catholic children of Ontario are attending separate schools. But what are the facts? In Ontario there are in round figures, about half a million children attending the Public and Separate schools. Of this number a little over 80,000 are Catholic. Of the latter it is officially declared that about 50,000 actually attended the public schools, while only the remaining 30,000 and odd attend the Separate Schools. Just think of this as the result of fifty years operation of separate schools. Nearly one-sixth of all the school children of that Province are Roman Catholics, yet not more than one-sixteenth attend separate schools. Truly it can scarcely be said of the Separate Schools of Ontario that they have to any alarming extent kept the children of Protestants and Catholics from mingling and being educated together. The truth of this will more strikingly appear when we reflect that of the children who attend separate schools, a very large majority are in cities and towns. Does it not strike you that even if there were no separate schools in existence the children of Protestants in cities and towns would naturally drift into one set of schools, and the children of Catholics into a different set? Is there any doubt of this? Just imagine that in Toronto or Winnipeg, or some other city, the separate schools are closed, and that there are none but public schools. Imagine that even the Roman Catholic clergy have so far yielded, unwillingly of course, to the situation, that they have not created Church schools in which to educate the children of their flocks, and that all in fact attend the public schools. Would we not in such cities still have Roman Catholic teachers and Roman Catholic trustees for the public schools? And there would of course be more than one school in each city. Now does any one doubt that there would be a tendency, the moment the separate schools were closed, to provide Catholic teachers for some particular school in the city. And would



not such school practically be exclusively attended by Roman Catholic children? I care not how it may be brought about, there will be in the end a tendency to separation. I may refer to this view of the matter in another connection presently; I now submit it just to point out that separate schools are not responsible in a Province like Ontario to so great an extent as we would have thought for the separation of Catholic and Protestant children into different schools, and for preventing the unity that is thought to be so desirable.

### REASON FOR THE HARMONY IN ONTARIO.

Now let us see whether there is any explanation of the fact that in Ontario five-eighths of the Catholic children attend public rather than separate schools. Let us consider for a moment what the effect would be, if, against the contention and conviction of the Catholic minority, the Legislature of Ontario should set up a claim to have the power to abolish Separate Schools, and that it attempted to exercise that power: do you doubt that there would be at once a tremendous revulsion against public schools on the part of Catholics? Would not the parents of that faith, who to-day send their children to the public schools, claim that they and their church were being wronged and persecuted? I am not saying that such a conclusion on their part would be a just one, but I say that they would so think. And so thinking, they would cease to send their children to the public schools.

The situation in short is this. Roman Catholics take the position that under certain restrictions, and subject to certain regulations, they are entitled under the constitution to establish and maintain separate schools. The provincial law in Ontario recognizes this view of the constitution and gives to Catholics perfect liberty to establish such schools under these restrictions and regulations, the Province however taking care to see that the standard of efficiency for secular teaching is fairly maintained. Catholics thus deem themselves treated with perfect fairness. No antipathy to provincial law or to the protestant majority is aroused on their part, and a condition of content and harmony prevails. But were the Ontario Government and Legislature to deny these claims of Catholics and to force them against their will to support public schools exclusively, is it not manifest that the minority would look on such action as a persecution? Would not the Catholic laity almost to a man stand by their clergy in resisting the abolition of their schools, even though they had not hitherto largely availed themselves of them? Would not the attitude of that laity be turned from one of entire harmony with, to one of the bitterest hostility to, the Protestant majority? Would not the very Catholic school children, who had hitherto received their education under the same roofs and out of the same books and from the lips of the same teachers, with their Protestant fellow children, cease to regard these same Protestant children as their fellows, and would they not thenceforth be trained to regard them as the children of their oppressors? And would not the beautiful dream of the loving unity of

Catholic and Protestant children, reading and thinking and playing together—a dream that has made some approach at least to becoming a reality in Ontario, under the limited but State controlled scheme of separate schools—be now utterly dispelled?

### EFFECT OF SEPARATE SCHOOLS HERE.

Let us turn once more to Manitoba; and it must be noticed not only that in this Province Catholics form only one-tenth of the population, but that the Catholic and Protestant communities are divided territorially, to a degree that does not hold in Ontario. In the latter Province the Catholic population is, to a large extent, interspersed amongst Protestants and is not found to exist essentially in separate communities. In Manitoba, on the other hand, it is mainly found in separate settlements, chiefly in the old French parishes and a few other districts. It follows that if a separate system such as I have described were established here, the separate schools would be limited to those French parishes, to the cities and larger towns, and to a very few other localities. Throughout the Province at large, apart from such localities, we would not have a single separate school. The Catholic rate-payers in the greater part of Manitoba would pay their taxes, in common with their Protestant neighbors, to the public schools; and the children of Catholic parents in that part would attend the same classes and imbibe the same ideas, in the matter of secular learning as those of Protestants. Even in Ontario, out of 700 municipalities, more than 500, I read, have not a single separate school within their bounds. In how many municipalities out of our 100 would separate schools exist? In the whole of North-western Manitoba, I take it, there would be, as things now are, but one possible separate school, and that in the little Half Breed settlement at Port Ellice. Is it really worth while raising all this trouble to prevent these old settlers from having the Roman Catholic Catechism taught in their schools? In the French parishes on and near the Red River, Catholic schools would of course prevail; but to what extent would that hinder the progress of the public schools of the Province at large, or retard education? The Province would demand the like qualification for secular teaching on the part of the Catholic as of the public school teacher. The schools would be submitted to the same inspection, and the entire administration of the system would be open to the same public criticism.

I certainly believe that the separate schools will not, with all the efforts of the Provincial authorities, be made equal to the public schools. This is a defect which I fear is not likely to be wholly overcome, and to that extent the children of Catholics attending these schools will be the sufferers. But the tendency, even in this respect, will be in the way of improvement. The better education received by Catholic children in the public schools will spur the supporters of separate schools to aim at the same standard, and if the protestant majority in a kindly and generous spirit of toleration concedes to the minority this privilege, claimed by the latter as a right, will not the same influences operate with us as in Ontario to create a feeling of harmony and good will between the two sections?

## EFFECT OF ENFORCING NEW LAW.

And how is it going to be if we attempt to enforce the present law? I am assuming that it is held to be constitutional, which possibly it may be. I am assuming that it will not be modified on appeal, which I am quite confident it will be. But even if it is not modified, and if the Department of Education succeeds in converting every Catholic school in the Province into a public school, an experiment which, by the way, it is slow to attempt—what, I ask, will be the result? Unless the law is made to go one step further, in the case of Winnipeg, for instance, so as to divide the city into school divisions and to compel the children of each division to attend the school within its own bounds, will not Catholics as already suggested, send their children mainly to one particular school? We may be sure they will be disposed to do so. Assuming for example that St. Mary's school in Winnipeg, now, or lately under Catholic control, is made a public school.—The School Board of the City will doubtless in the future employ some Catholic teachers in the schools. These teachers will probably be allowed to teach in St. Mary's school and the children of Catholics will flock to where the Catholic teachers are. We cannot doubt that the influence of the clergy will tend in this direction. In defense of their rights, in resentment of the wrong done to them (as they will contend) the Catholic laity will rally round their clerical leaders; they will organize for resistance, and the power of the priest will be greater than ever to keep the children out of the public schools except such of them as may be practically under Catholic control. As in Winnipeg, so will it practically be in the rest of the province. And as to the French parishes, how is it going to be? Unless the administration of the new law is to be a farce we must have Catholic trustees in these parishes. These trustees will appoint Catholic teachers. In their schools the children will be almost all, and in most of them exclusively, Catholic. Does anyone doubt that such schools, even under the new law, will be largely Catholic in tone, and that Catholic instruction will in some way or another be imparted? How are we going to prevent it? Let it not be said that the presence of some Protestant children in these schools will prevent such a state of things. I take leave to doubt whether the parents among the Protestant minority in the Catholic parishes will be burning with an intense desire to send their children to the schools presided over by Catholic trustees and teachers. The bitter antagonism that the attempt to enforce the new law will arouse, will tend to make it exceedingly difficult for Protestant children to have satisfactory education in schools in Catholic settlements. That antagonism is not going to cease after a lapse of a few years. They who think otherwise have studied to but little purpose the working of the papal organization—its studied, deliberate, patient, purpose, and its unparalleled machinery for accomplishing its ends, as well as its unalterable determination to attain them. The result will be that the schools in the parishes will after all be practically Catholic. Let me here anticipate an objection that may be made to the conclusion I draw from the proportion of Catholic children attending

the public schools of Ontario. I have heard it suggested that the public schools they attend are in many instances situated in Catholic districts and are practically under Catholic control. If this be the fact it but establishes my proposition that even after we establish our public school system, the tendency in Catholic districts will be to have church teaching in the public schools within these districts, and it does not lessen the force of the contention that separate schools do not keep the children separated to any extent.

We, of the majority, pride ourselves on being actuated by a laudable desire to bring about the common education of the children of all classes in perfect unity. After much earnest consideration of the whole question, and with a prepossession most strongly in favor of public, and against separate schools, I candidly confess that I do not believe we can bring this union and harmony about by an enforced abolition of Catholic schools under the circumstances that have so long existed in Manitoba. I sincerely believe, and that belief is every day strengthened, that our course is calculated to have entirely the opposite effect. My view is that we should aim to keep the doors of the public schools open as wide as possible to the admission of Roman Catholic children, and I am convinced that the stirring up of religious strife and sectarian animosity is the surest way to drive them out. Had we, in abolishing the recent educational system, adopted one combining uniform secular teaching, with the limited provision for separate religious instruction that I have described, we would have removed the chief objections to our late system; we would have secured that our money should be devoted to secular education, and we might have done all this without a religious convulsion or a disturbance of the harmony that has so long and so happily existed; and I think we would have done no injury to Protestantism.

### AN UNWISE AGITATION.

I think it was unwise at this time for us to enter on another period of public disquiet and agitation. For years we have lived in a state of agitation. It was an agitation however in defence of rights secured to us by our Constitution—an agitation to sustain the Constitution itself, and altogether a just one. We have now been for a short time at peace and free from turmoil. Our people are getting more contented, our institutions have a chance of being built up and strengthened, and our financial position, thanks to the present Government, is sound and satisfactory. The eyes of the outside world are once more directed to us. We enjoy the hope that the tide of immigration is about to set in, in our direction, to an extent which has not hitherto been the case. And I believe that the electorate of the Province will think twice and think carefully, before they will willingly see our prospects endangered by entering on an agitation that will provoke the worst of all strifes, a religious one, while failing to accomplish any good. I believe our people will be disposed to enquire first whether there is no way of securing a fair and reasonable system of education without such attendant evils.

## DR. RYERSON ONCE MORE.

I have quoted already from the words of Dr. Ryerson. Let me add few more sentences, from his powerful pen, written at the time of the separate School agitation in 1858—words which seem to me to apply to our case with considerable force:—

"The Legislature of Upper Canada can afford, and will, I am persuaded, be disposed, as will also a great majority of the people, to be generous as well as just in regard to the provisions respecting separate schools, and to give our Roman Catholic fellow citizens reason to be grateful, rather than complaining, that they are associated in government and in all the rights and immunities of a free people with those, a fundamental principle of whose religion is right of private judgment and liberty of conscience, and among whom equal rights and privileges amongst all classes is a tradition of history. It is very true that authorizing the establishment of separate schools by law, and aiding them out of legislative school grants is granting to Roman Catholics more than their equal rights with other classes of the community; but it is better to lean to the side of indulgence than to give a pretext for complaining of persecution. The Protestant inhabitants of Upper Canada are well able to be generous and indulgent, and they will have more to hope for and congratulate themselves upon, by permitting the separate school provisions of the law to remain as they are, than by giving the appearance of returning evil for evil by abolishing them."

This, you will remember, is from an advanced Protestant, and the highest educational authority that ever lived in Canada. Like the late George Brown, and like Alexander McKenzie, Dr. Ryerson was, on principle, strongly in favor of a national, non-sectarian system; but long before Mr. Brown or Mr. McKenzie by years and experience had become convinced that it was impossible effectually to abolish separate schools, Dr. Ryerson had come to the conclusion that, as he put it, "It is preposterous to think of legislating separate schools out of existence;" although there was at that time no constitutional restraint on the power of the Legislature to do so.

## WOULD THE SYSTEM OF 1863 BE ACCEPTED?

It may be said that if the present law is unconstitutional there must remain a doubt whether it is in the power of the Legislature to make even such a change as will introduce the Ontario law of 1863, and that at all events it would be subject to appeal to Ottawa. I admit both of these propositions at once, but I answer, we have no right to assume that the Catholic church will take exception to, or appeal against, a scheme that that church itself approved for Upper Canada in 1863, a scheme that was in fact introduced by a leading Catholic member in the House, and supported by every Catholic in the land. And if an appeal be made to Ottawa, I cannot conceive of the powers there failing to approve of the very system intended to be perpetuated for Upper Canada, under the Confederation Act, and accepted by all parties in that Province.

There is, however, a circumstance which gives us a fair claim to contend that, as regards this question, Manitoba is in some respects in a different position from Ontario. In the latter Province the compact of Confederation was the act of its own people. They submitted to be bound by the terms of it, and they voluntarily and by their own act tied themselves down by it. We in Manitoba had no voice in the framing of our own constitution. It was created for us before we were in existence as a Province. It may be urged, therefore, with a good show of reason, that we ought not to be bound by it in the same sense that Ontario should be. To this it will be answered that at all events we accepted it and organized our Government under it without protest; and that one of our first acts was to recognize the right of the Catholics to denominational schools. And yet it is perfectly fair for us at least to consider the propriety of seeking

### AN AMENDMENT OF OUR CONSTITUTION

that will enable us to legislate on the question without restriction or limitation. Some important considerations arise in weighing the propriety of seeking such an amendment. In the first place, are we likely to succeed if we try? I answer very confidently that we are not. The compact of confederation was a final settlement of grave sectional and sectarian difficulties that had long existed and had threatened a dead-lock in government. The Imperial Parliament is not going to alter the terms of that compact in essential matters, without the consent of all the Provinces that were parties to it; nor is it likely to consider that the restrictions which were acceptable to and imposed upon Ontario and Quebec by their own wish and for such a good end, can be a very serious injustice to Manitoba with its mixed population, especially in view of the fact that we have practically accepted the terms of it ourselves. Apart from all that, it is unreasonable to expect that the Imperial Parliament will change the Constitution of any of the Provinces on the school question, in the face of the protest of two-fifths of the population of United Canada.

### EFFECT ON QUEBEC PROTESTANTS.

But even if we could get the Constitution so changed, let us be fully convinced that we are doing wisely in seeking it before we apply. In so far as Manitoba is concerned, I see not the least objection to our having the same exclusive and final power to legislate on education as on any other local matters and I would hail the change as a step in the right direction. But the amendment of the Constitution for Manitoba in this respect would practically re-open the question in the older provinces, and I do not forget that the object of limiting the power of the local legislatures as to education was not more the protection of the Catholic minority in Ontario than that of the Protestant minority in Quebec. Indeed a perusal of the debates on Confederation will show the reader that those members of the House, who above all

others pressed for a clear provision in the Constitution disabling the provinces from interfering with the established system, were the Protestant members from Quebec. And we should weigh well the possible effect on the position of Protestants in Quebec if the Legislature of that Province were given absolute control over legislation. Here let me say that I do not at all yield to the argument which was pressed on us during the discussion, that the same consideration which justified dissentient schools in Quebec for Protestants, justifies the demand of Catholics for separate schools in Manitoba. There is really no parallel between the two cases. The schools of the majority in Quebec are church schools—purely denominational; those of the majority in Manitoba are, we claim, wholly unsectarian. The commendable spirit of fair play that moves the majority in Quebec to concede dissentient schools to Protestants, rather than compel them to support Catholic schools does not therefore necessarily suggest that the majority in Manitoba, which has no denominational schools, should create for the benefit of Catholics, separate denominational schools of their own. Nevertheless it is true that the law that protects the dissentient schools in Quebec was intended, according to the Catholic view of it, to protect separate schools in Manitoba. At all events, were the Provinces free to legislate on education without appeal, the Province of Quebec would be as free to refuse dissentient schools to Protestants there, as we in Manitoba would be to impose a national system on the Catholic minority here. And to show that there is a feeling amongst the Protestants of Quebec as well as amongst those elsewhere who sympathize with them, that the opening of the question might be attended with great danger to them, I will quote the following suggestive utterances:—

At the Equal Rights Convention of 1889, the Rev. Principal Caven, in opposing the proposition to abolish separate schools, said:—"Their Protestant brethren in Quebec had also in some sense the system of Separate Schools and they must take extreme care they did not take ground that would be injurious to their brethren in the Province of Quebec." Mr. Lee, of Sherbrooke, Quebec, at the same convention, speaking for the Protestants of that Province, said:—"If Separate Schools were taken from the Roman Catholics in Ontario, the majority in Quebec would demand that the Protestant schools be taken from the minority in that Province. He did not think the convention could demand the abolition of Separate Schools in this Province and ask that they be retained in Quebec." And Dr. Davidson, perhaps the most prominent man connected with the Equal Rights movement in Quebec, was quoted lately as having written a letter to the council of the Association in Toronto protesting against an agitation for the abolition of separate schools. "It is easy for you," wrote Dr. Davidson "to say—'do away with separate schools'—easy for you in your strong Protestant Province of Ontario. But as you are strong be merciful, and remember your weaker brethren in the Province of Quebec. \* \* \* While we may blot out the 238 separate schools occupied by Roman Catholics in Ontario, you also

"desire to blot out the 980 separate schools occupied by Protestants in "Quebec." An appeal for very mercy's sake, you see, from Quebec Protestants, not to attack the Constitution, which alone secures to them dissentient schools in their province.

I am not prepared, for my part, under all the circumstances, to seek an amendment to the Constitution in this direction, so long as we can get a measurably fair system of education free from interference by the courts or by the authorities at Ottawa, or until we have exhausted every effort to do so. Holding this opinion, I would have been compelled to vote, had I been in the House, against the proposition of the English speaking members of the opposition, as formulated in the following resolution, moved as an amendment to the passage of the School Bill:—

"That such steps be taken as will secure an amendment by the "Imperial Parliament of the British North America Act, and the Manitoba Act, whereby the right of the Legislature of Manitoba to deal "with educational matters in the Province shall be firmly and surely "established without appeal to the Governor General in Council or the "Parliament of Canada."

#### RESOLUTION EMBODYING THESE VIEWS.

I had prepared, and had intended, had I been present and able to secure a seconder, to move a resolution in terms like these:—

"This House is of opinion, (in view of the questions arising under "the Manitoba Act as to the right of the Legislature to abolish denominational schools, and having regard to the fact that such schools have "been enjoyed by the Roman Catholic minority by common consent for "many years), that it is prudent to confine the proposed changes in the "school law, at this time, to such amendments as will remove the chief "objections to the present system, and ensure the establishment and "maintenance of a uniform and high standard of qualification in all "teachers, and of efficiency in all schools;

"And this House declares that our schools, in accordance with the "well understood wishes of the majority, should be of a national and "non-sectarian character, conceding the privilege to the Catholic minority, "at the same time, of providing separate religious instruction in schools "within districts mainly peopled by them. This right should, however, "be subject to and limited by, such proper safeguards and restrictions, in "respect to the size and minimum Catholic population of these districts, "and otherwise, as the wisdom of the Legislature may devise;

"And having regard to the principle which this House hereby "affirms, that public money for schools should be granted only for the "purpose of promoting secular education, all such privileged schools "should be subject to the same central control, and the same State "inspection, as the regular public schools, in order that the like standard "of efficiency for secular education may, as far as possible, be maintained "in the one class as in the other;



"And all Roman Catholic ratepayers who would, under a uniform system of public schools, be liable for school rates, ought to be rated and taxed as ordinary public school supporters, unless and until they have by their own voluntary act become attached to a privileged school thus established according to law."

Such an amendment, I dare say, would not have received the support of the majority in the House, directed as it would have been, against the proposals of a Government so strong in the Legislature. I can only hope that at the end of the agitation on which we are now entering, we may get out of it with no greater concession to Roman Catholics than such an amendment involves.

### RELIGIOUS EXERCISES UNDER NEW SYSTEM.

And now to complete my remarks on this question, already extending far beyond what I intended, I wish to warn those who desire the maintenance of religious exercises, not to say religious instruction, in the schools, that the new system, if it remains in force, is practically certain to result, ere long, in the discontinuance of all such exercises. The chief promoters of the new law candidly declare themselves in favor of the secularisation of the schools. That was, in fact, the government scheme, from which it was diverted mainly by the strong remonstrances of leading divines, who raised their voices in earnest protest against it. But "convinced against their will," or rather driven most unwillingly against their convictions, into a modification of their measure, by these remonstrances, the promoters of the Act remain of the same opinion as before; and means will shortly be found to bring about the system first intended. As I have already suggested, I do not think that it is possible to agree on religious exercises that will be acceptable to both Catholics and Protestants. If it is not, the position of the secularists will be greatly strengthened, as there is after all, some force in the contention that if we are to forbid the use of Catholic exercises it is unfair to permit exercises which, according to the contention of that church, are anti-Catholic.

The probability of religious exercises being altogether abolished has been present to the minds of many earnest men in Manitoba who fear much injury from the result. Leading members of the clergy in the different denominations have expressed the view that Separate Schools are less objectionable than the exclusion of religion from the public schools. Said the Bishop of Rupert's Land at the meeting of Synod last fall:—"I would infinitely prefer that the Roman Catholic church should continue to have separate schools under satisfactory conditions for the State, to our schools being without religious instruction." And the Synod of the Church of England applauded and approved the sentiment. Principal King, of Manitoba College, and the Rev. Peter Wright, of Portage la Prairie, voiced, I believe, the opinion of the Presbyterian body in Manitoba, when the learned Principal said that:—"If it were a fact that the Separate Schools could only be equitably got rid of

"through the entire secularisation of our public school system, much as "this end is desired, I could not consent to purchase it at such a cost;" and when Mr Wright backed up the same idea by the declaration that:—"If "we cannot get rid of Separate Schools except at the cost of legislating "the Bible out, by all means let the Separate Schools stand."

These considerations suggest to my mind one great advantage of the Ontario system of 1863, even if it does fall short of our ideal. It allows more freedom in the conduct of religious exercises in the public schools. Concede to Catholics the right to have their own religious exercises in the schools of their own districts, and there will be less difficulty in providing for a scheme of religious exercises suitable to Protestant denominations in the schools of the majority. I have no doubt that one of the considerations leading to the general satisfaction with the system in Ontario, is this very advantage in the way of greater elasticity for allowing religious exercises acceptable to the majority.

#### FURTHER EVIDENCES FROM ONTARIO.

Let me relate some other facts shewing, in a marked way the satisfaction given by the settlement of 1863. I have referred to the decision of the Courts declaring in effect, that the main objection taken to the separate school clauses was without foundation. The Government in deference to public opinion, and so as to set the question at rest, passed a declaratory Act last session, affirming that the meaning of the law was as the Court stated. Upon this being done, the Rev. Principal Caven, the able and fair-minded President of the Equal Rights Association said, in a letter published by him in April last, in the Toronto Mail that, "the "recent modifications of the separate school law are in substance what "our platform demands." Again at the General Assembly of the Presbyterian Church of Canada, held at Ottawa a few weeks ago, the Rev. Principal Grant of Queen's College, referring to the change in the law since its establishment in 1863, expressed the opinion that, "if they "could get separate schools *as they were established* in Ontario, not as "they had been made, *that was a good practical compromise* on the "question." At the same meeting of the General Assembly, the Rev. Dr. MacDonnell of Toronto, a leading member of the Equal Rights Association, thus expressed his view of the attitude of the Presbyterian body on this question: "Their desire was that in separate schools precisely the "same education should be given and the same books used and there "should be the same inspection" as in public schools—referring of course to secular education, and the books used for secular education. And that Presbyterian General Assembly of 1890, like the great Equal Rights Convention of 1889 actually declined to entertain a motion that might be interpreted as declaring for the abolition of Separate Schools. I might quote so well known and eminent a Protestant divine as the Rev. Dr. Cochrane of Brantford, Ontario, who in an address last winter, while declaring that the *granting* of separate schools was a great mistake, and that the system "seemed incapable of justification on any ground of right,

"principle or expediency," wound up with this significant language: "But now that separate schools have been granted for so many years, I am not prepared to say that solemn pledges given to Roman Catholics should be broken by a Protestant majority, even were it possible or honorable." And I read about the same time in the editorial columns of the Canada Presbyterian newspaper of Toronto, the principal organ of that Church in the Dominion, these words: "It is easy to say, 'abolish separate schools,' but those who use that phrase very flippantly have no idea of the question they are opening up. The man who assumes that none but Catholics are involved has never studied the problem." I know not how far Mr. Joseph Martin, when, under the enthusiasm created by Dalton McCarthy's eloquence at Portage la Prairie, he made the announcement of the Government's new policy, had a proper idea of the question he was opening up: I am at any rate of opinion that the majority of the people of this Province, who were disposed to support him in his movement, did not have the idea that so many difficulties were in the way, or that consequences so serious were likely to follow. And I humbly venture the suggestion that the sober second thought of the great majority of Manitobans, after calm and serious consideration of the whole matter, will agree with me that under all the circumstances, the prudent course would have been to seek a settlement of the question somewhere on the lines of the "good practical compromise" of 1863, as the brilliant Principal of Queen's College put it at Ottawa, and on the lines of the Equal Rights platform of 1889.

I trust I have made myself perfectly plain in this expression of my views on the school question in Manitoba. I have at least sought and intended to do so, wishing, as I do, to avoid all misunderstanding as to my position. I do not leave room for any one to say that I am favorable to separate schools as against a uniform non-sectarian system, if the latter can be got without wrong. On the contrary, it is my view that the concession of separate schools in 1863 in Ontario should have been refused, while I fully recognize the difficulty that presented itself to the statesmen of that day. But, with Dr. Ryerson, I see a difference between refusing separate schools at the outstart and removing them after they have been, not only created by our own laws but protected, as they were intended to be, by the Constitution. Even if every Protestant in the land joined hands with his fellow Protestants to-day to bring their abolition about, I tell you that we would have a serious task before us; and the end, I am quite sure, even if we succeeded, would be, not the establishment of an acceptable uniform system of education, but the inauguration of a bitter controversy between races and sects. The denominational system enjoyed by our Catholic countrymen is like a tree that we ourselves have planted. We have tended it, we have watered it, we have protected it; to save it from assault we have fenced it round with the Constitution itself; and my conviction is that by attacking it now, we only give it a strength that it never before possessed. That tree has in itself some inherent weaknesses; hundreds of Catholic parents in Ontario, we are assured, by

choice and against clerical pressure, send their children past the doors of the separate schools to enter those of the public schools, because they are guaranteed a better education in the latter. Had a state of harmony prevailed here under a like system I dare say the same results would follow. But when we attack that tree of our own planting, we but enable it, like a natural tree withstanding the natural tempests, to strike its roots deeper and deeper into the soil, giving it greater power of resistance than ever. Such at least is my candid conviction. And I venture to predict that the power of the authorities at Ottawa will, under the appeal clause in the Constitution, be put forth for the protection of the privileges intended to be guaranteed to the Catholic minority.

### THE POSITION IN ENGLAND.

Since writing the above, my attention has been drawn to the present position and tendency of the educational system of England, which I think suggests some lessons to us under present circumstances. Let me remind you that in England, since 1870, they have had two sets of schools—the Board schools corresponding to our public schools, and Non-board or voluntary schools which are denominational. From a recent magazine article (the Fortnightly Review, August, 1890) from the pen of Rev. Mr. Diggle, Chairman of the School Board of the City of London, I quote this description of the two sets: "The Board schools may be Christian, the Non-board school must be Christian. Christianity is the fundamental idea upon which Non-board schools are based, and their essentially religious character is the root from which their vitality springs."

The British Government gives a like grant of public money to the denominational schools as it gives to the Board schools; but local rates are raised for the latter only,—the adherents of the denominational schools, as I understand it, being compelled to pay their rates towards the Board schools, where the latter exist, just as if they sent their children to them. It was expected, after the establishment of this double system, that the voluntary schools, which alone existed before 1870, would, when thus left at a disadvantage, gradually go out of existence. It seems clear that they are, as might be expected, far behind the standard of the Board schools in efficiency. They have no legal machinery to secure their efficient maintenance; they occupy too often buildings utterly unsuitable for schools; they are miserably equipped, and as to their management and the qualification of teachers, they are in no way under public control; and yet, with all these drawbacks, instead of dying out, as we would have expected, the following remarkable facts are furnished by Mr. Diggle. In 1870, when the new system was introduced, there were already in existence in England and Wales Non-Board schools giving accommodation to 1,878,584 children. Since that time, and up to the end of 1889, Board schools had been established with accommodation for 1,358,792 little ones. During the same period, however, the accommodation in the Voluntary schools had increased to 2,581,649. That is to say, the new and additional schools of the denomina-

tional class that had been established since the introduction of the Public system almost equal the entire number of Board-schools that have been opened. A most remarkable result in view of the fact that the people who, without participation in local rates, maintain the accommodation and supply the teaching for this 3,500,000 children are at the same time heavily taxed for the maintenance of the schools in which the remaining 1,750,000 are being educated. What extraordinary vitality in the denominational schools is indicated by these figures, and how strikingly they suggest the effectiveness of the power that will be put forth in our own Province by the Church of the minority to maintain its schools! And what a serious draw-back to efficient elementary education in England is suggested by these facts! In at least ten thousand parishes, out of a total of fifteen thousand, there is not a single school other than those of a denominational character, and those form the only means of providing education for the children of other denominations. A trial of twenty years establishes the fact that it is quite impossible in England to reduce education to a uniform national non-sectarian system, notwithstanding all the weaknesses of the denominational plan. The great element of strength in the denominational system no doubt is, as Mr. Diggle puts it, that religious education is assured. And the Royal Commission that was appointed to enquire into the whole question of education recently, has, as has been pointed out in the discussion of our own case, pronounced in favor of more definite religious education even in the Board schools.

And so it comes that an agitation is going on in England to-day, not for the abolition of denominational schools, which these facts prove to be out of the question, but to bring them, in respect to secular education, somewhat under the control of Public Boards, so as to enable the State to have some guarantee of their efficiency. And there is also a demand that they be put on the same footing as to participation in local rates, as well as in the national grant, as the Board schools. "It is clear," says Mr. Diggle, "that an arrangement cannot be of a permanent kind which enables Board schools, which are possibly Christian, to be 'certainly efficient; and condemns Non-Board schools, which are essentially Christian, probably to be allied with educational inefficiency. Every practical proposal, therefore, for the reform of the present educational arrangements, must assume the continued existence of Non-Board schools as a part of the provision for elementary education; and also their existence, under conditions more favorable to educational efficiency, than obtain at the present time." And with a tone of confidence indicating that he had reason to know the attitude of the Conservative Government of Lord Salisbury on the question, Mr. Diggle adds, "It is in this spirit that the present Government are apparently prepared to re-open and re-consider the whole question."

Let me quote a few more sentences culled from this rather instructive article on English schools:—

"There are, no doubt, difficulties in every possible solution of the question, but rational persons will seek in each solution which is offered for acceptance, the minimum of difficulty with the maximum of advantage. Most people who understand the subject will concur in the suggestion of allowing the ratepayer to express his preference with reference to a portion of his educational rates, considering them as proposals which would tend to promote the efficiency of the schools; to secure a more substantial and responsible management of them; and enable the Government to exercise over them a more general and equable control \* \* \* while the essentially religious character and freedom of the Non-Board schools would be absolutely preserved. \* \* \* We have to make up our minds that we can no more impose an absolute state uniformity in educational matters than in any other upon which men think deeply and feel keenly. What we can do, and ought to aim at doing, is to give fair play for differences of method in the mode of educating children, always insisting that the education given shall be thoroughly efficient for the general purposes of the State."

Let us bear in mind that the difficulty in England arises, not from the existence of denominational schools of one church only, but from those of several denominations, mainly the Anglican and Roman Catholic with a considerable number of Methodist schools. How fortunate for us in Manitoba that all the Protestant denominations are willing to unite under one system. But will not the Catholic Church here hold out just as firmly against the closing of their own schools as the Anglican and Catholic Churches at home have persisted in retaining their denominational schools. And we shall have in this Province of necessity, as a result of our new law, a class of schools attended by the children of Catholics, under no pretence of any public control, receiving no public aid, without any machinery for securing proper buildings, proper equipment, properly qualified teachers, or efficient schools; but just such as the Church of Rome may give them and such as will be wholly under clerical control. How much more like the part of wisdom would it have been to allow the Catholic Church here perfect freedom to impart its own religious instruction in schools controlled for secular purposes, and aided for such purposes, by the State, with a security for efficient secular teaching. And let us bear in mind too, that the necessary tendency of our new system, as I have tried to point out, will be—to use again the words of Mr. Diggle, in describing the effect of attempting the establishment of a non-denominational system in England, "to minimize the religious instruction which may be given in the schools and thus by degrees to deaden and secularize the whole tone of the instruction given." The natural consequence of such a result will be that the Anglican Church in Manitoba—yes, and perhaps the Presbyterian and other churches too, will commence an agitation for religious education that can hardly fail to end in the breaking up of our national system and its degradation to a system of purely denominational schools; aiming less at imparting that sound secular education that fits our children for good citizenship, than at in-

stilling into their minds the controversial points of belief in their several sects.

To you, Electors of the Electoral District of Russell, and to the thoughtful electors of the Province at large, I commend these suggestions from the lips and the pens of leading educationists and statesmen in the older lands; and I commend to you the careful and earnest consideration of the whole question in a spirit that rises above denominational narrowness and political partisanship; seeking, as I am certain you do, to see the building up of an educational system that will, as far as can be, secure the highest standard of qualification in teachers and the highest efficiency in secular education, combined with the utmost possible elasticity for adaptation to religious exercises and instruction, suitable to the different Christian denominations. In seeking this we do well to study the history of the question in the older provinces and to benefit from their experience. Nor should we deem ourselves too far separated from Old England herself to take a lesson from her pages, or to study her splendid institutions which, having been built up, under somewhat conservative influences, are being remoulded even now under, perhaps, more progressive ideas, into still greater excellence, guided by the teachings of experience and by the wisdom of her statesmen.

I had intended to discuss shortly some other questions, including the creation of the Department of Education, the Dual Language question, with perhaps a few words on the Hudson's Bay Railway and other matters; but the great space, much greater than I had expected, taken up with the consideration of the school question, forbids my doing so in this letter. I may shortly, however, take another opportunity of saying something to you on these matters. Meantime

I have the honor to be,

Gentlemen,

Your obedient servant,

JAMES FISHER.

September 1890